

Ex. 6

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17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA**

19 CISCO SYSTEMS, INC.,)
)
 20 Plaintiff,)
)
 21 v.)
)
 22 ARISTA NETWORKS, INC.,)
)
 23 Defendant.)
)
 24)

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CASE NO. 5:14-cv-05344-BLF

**PLAINTIFF CISCO SYSTEMS, INC.'S
 SEVENTH SUPPLEMENTAL
 OBJECTIONS AND RESPONSES TO
 DEFENDANT ARISTA NETWORKS,
 INC.'S FIRST SET OF
 INTERROGATORIES (2)**

1 Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Cisco
2 Systems, Inc. ("Cisco"), by counsel, hereby provides its seventh supplemental objections and
3 responses to Defendant Arista Networks, Inc.'s ("Arista's") First Set of Interrogatories, which
4 were served on Cisco on April 10, 2015 (the "Interrogatories").

5 **GENERAL OBJECTIONS**

6 Cisco makes the following general objections to Arista's Interrogatories, which apply to
7 each interrogatory regardless of whether the general objections are specifically incorporated into
8 the specific objections and responses below.

9 1. Cisco is responding to each interrogatory as it interprets and understands each
10 interrogatory with respect to the issues in this Litigation. If Arista asserts a different interpretation
11 of any interrogatory, Cisco reserves the right to supplement or amend its responses or objections.

12 2. Cisco objects to each interrogatory to the extent it is inconsistent with or seeks to
13 impose obligations beyond those imposed by the Federal Rules of Civil Procedure, the Civil and
14 Patent Local Rules of the Northern District of California, and any orders governing this Litigation.

15 3. Cisco objects to the definitions of "Cisco," "You," and "Your," to the extent that
16 the definitions are overly broad and purport to require Cisco to provide information that is not
17 within the possession, custody, or control of Cisco.

18 4. Cisco objects to Arista's definition of "Asserted Patents" and "Asserted Claim" to
19 the extent that Arista's use of those terms in its interrogatories to Cisco renders certain of Arista's
20 Interrogatories as constituting multiple discrete subparts that are in fact multiple, separate
21 interrogatories.

22 5. Cisco objects to the definitions of "CLI Command" and "Network Management
23 Product" to the extent that these terms are vague and ambiguous with respect to their scope and
24 application as used by Arista, rendering these terms at least potentially unclear with respect to
25 what particular devices are intended to be incorporated thereby, and further on the grounds that
26 use of the terms in Arista's Interrogatories renders those interrogatories overbroad and unduly
27 burdensome to the extent that the discovery sought by such interrogatories is not reasonably tied to
28 Cisco's claims or Arista's defenses in this Litigation. Cisco further objects to the use of these

1 products that contain CLI, computer programs and/or other works that infringe Cisco's copyrights.

2 During that time, Arista has reported the following revenue and net income figures:

3 Fiscal Year	Revenue	Net Income
4 2012	\$193.4 M	\$21.3 M
5 2013	\$361.2 M	\$42.5 M
6 2014	\$581.4 M	\$86.9 M
7 Total 2012-2014	\$1,136 M	\$150.7 M

8 *See, e.g.,* Arista Networks, Inc. 2014 Annual Report, *available at*

9 http://investors.arista.com/files/doc_financials/Arista-2014-Annual-Report_v001_d7suv1.pdf, p.

10 5. Arista has not yet produced sufficient information from which Cisco can calculate its lost profits or its alternative, statutory damages.

11 For Cisco's patent claims, Cisco is entitled to its actual damages (*e.g.*, lost profits), or at least a reasonable royalty, since at least the date on which Cisco filed its complaint. *See* 35 U.S.C. § 284. Although Arista has not yet produced detailed sales records, Cisco believes that substantially all of Arista's sales during that period have been sales of infringing products. No public revenue or net income figures are yet available for this period. And Arista has not yet produced sufficient information from which Cisco can calculate its lost profits or its alternative, reasonable royalty damages.

12 Cisco's discovery efforts in this case are ongoing, and Cisco reserves the right to further supplement this response in light of facts learned during discovery, including information regarding Arista's sales of accused products and expert discovery.

21 **INTERROGATORY NO. 2:**

22 Identify with specificity every similarity that Cisco contends is a basis for its claim of copyright infringement, including the source material in Cisco's copyrighted work(s) that Cisco contends is the source of the similarity; the material in the allegedly infringing work(s) that Cisco contends reflects the similarity, and why Cisco contends that the source material is protected by copyright.

RESPONSE TO INTERROGATORY NO. 2:

Cisco incorporates by reference its General Objections as though fully set forth herein. Cisco further objects to this interrogatory as irrelevant and not calculated to lead to the discovery of admissible evidence to the extent it calls for evidence pertaining to specific similarities between Cisco's copyrighted works and Arista's accused products. Cisco further objects to this interrogatory to the extent that it calls for information that is publicly available, equally available to Arista, and/or in Arista's control, and therefore is of no greater burden for Arista to obtain than for Cisco to obtain. Cisco further objects to this interrogatory as compound. Cisco also objects to this interrogatory as undefined, vague, ambiguous, overbroad, and unduly burdensome in its use of the terms "with specificity," "every similarity," "why Cisco contends that the source material is protected by copyright." Cisco further objects to this interrogatory as premature contention discovery, especially in light of Arista's failure to produce information regarding its accused products, including source code. Cisco further objects to this interrogatory on the grounds that it prematurely seeks expert testimony. Cisco further objects to this interrogatory to the extent it seeks information that is protected by the attorney-client privilege, that constitutes attorney work-product, or that is protected by any other applicable privilege, protection, or immunity, including without limitation in connection with the common interest doctrine.

Subject to and without waiver of its general and specific objections, Cisco incorporates by reference, as if fully set forth herein, its operative complaint and all documents cited therein, including Cisco's copyright registrations as well as any subsequent amendments thereto. Cisco further responds, pursuant to Fed. R. Civ. P. 33(d), that Cisco will produce documents containing information responsive to this interrogatory, which information may be obtained from the documents by Arista as easily as by Cisco.

In addition to the examples set forth in Exhibits 1 and 2 to Cisco's operative complaint, Cisco identifies in Exhibit A similarities between Cisco's copyrighted works and Arista products. Each of the Cisco works cited in Exhibit A is protected by copyright because each of these works constitutes an original work of authorship fixed in a tangible medium of expression. Each Cisco work in Exhibit A contains expressive content, which is the subject of copyright protection.

1 Further, each Cisco document cited in Exhibit A was first published in the United States and was
2 authored by at least one author who is a national or domiciliary of the United States. *See, e.g.,*
3 Cisco copyright registrations attached to Cisco's operative complaint. Cisco has complied with all
4 applicable statutory formalities related to these copyrighted works. Additionally, because many of
5 the Cisco works cited in Exhibit A were deposited with copyright registrations within five years of
6 publication, the certificate of registration for these documents constitutes prima facie evidence of
7 the validity of the underlying copyrights. *See, e.g.,* Cisco copyright registrations attached to
8 Cisco's operative complaint. For the remainder of the Cisco works cited in Exhibit A, the
9 copyright registration certificates constitute evidence of the validity of Cisco's copyrights.

10 Cisco's discovery efforts in this case are ongoing, and Cisco reserves the right to further
11 supplement this response in light of facts learned during discovery, including information
12 regarding Arista's accused products and expert discovery.

13
14 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:**

15 Subject to and without waiver of its general and specific objections, Cisco further responds
16 as follows:

17 The similarity between Cisco's copyrighted works and Arista's accused products is also
18 evidenced by Arista's copying of numerous multi-word command expressions from Cisco's
19 copyrighted works. Each of those command expressions identified by Cisco in its copyrighted
20 works represents an original, creative expression. Attached as Exhibit B is a more comprehensive
21 listing of the multiword command expressions from Cisco's copyrighted works that were copied
22 by Arista, as well as the version(s) of Arista's infringing works that contain these protected
23 elements.

24 Arista also has copied Cisco's copyrighted command hierarchies. The organization of
25 Cisco's command expressions represents an original, creative contribution to Cisco's copyrighted
26 works. Because Cisco's command expressions are organized hierarchically, the copying of
27 Cisco's command expressions, described in Exhibit B, itself reflects Arista's copying of Cisco's
28 command hierarchies.

1 Arista has also copied Cisco's command modes and prompts, which also represent original
 2 and creative contributions to Cisco's copyrighted works. For example, Cisco's copyrighted works
 3 include "EXEC," "Privileged EXEC," "Global configuration," and "Interface configuration"
 4 modes, the names of which are duplicated in Arista's infringing products, using substantially
 5 similar prompts. Attached as Exhibit C is a more comprehensive listing of the command modes
 6 and prompts from Cisco's copyrighted works that were copied by Arista, as well as the version(s)
 7 of Arista's infringing works that contain these protected elements.

8 Because the burden of finding each of these command expressions, command hierarchies,
 9 and command modes and prompts in the copyrighted works and the infringing works is the same
 10 for Arista as it is for Cisco, pursuant to Fed. R. Civ. P. 33(d), Cisco identifies the following
 11 documents as containing responsive information:

12 IOS v. 11.0: Source Code, CSI-CLI-00403865.

13 IOS v. 11.1: Source Code, CSI-CLI-00403866.

14 IOS v. 11.2: Source Code, CSI-CLI-00403867.

15 IOS v. 11.3: Source Code, CSI-CLI-00403868.

16 IOS v. 12.0: Source Code, CSI-CLI-00403869.

17 IOS v. 12.1: Source Code, CSI-CLI-00403870.

18 IOS v. 12.2: Source Code, CSI-CLI-00403871.

19 IOS v. 12.3: Source Code, CSI-CLI-00403872, CSI-CLI-00403874.

20 IOS v. 12.4: Source Code, CSI-CLI-00403873.

21 IOS v. 15.0: Source Code, CSI-CLI-00054598 – CSI-CLI-00074027, CSI-CLI-00216957 –
 22 CSI-CLI-00217612, CSI-CLI-00223197 – CSI-CLI-00224078, CSI-CLI-00226300 – CSI-CLI-
 23 00226709, CSI-CLI-00267773 – CSI-CLI-00268938, CSI-CLI-00271385 – CSI-CLI-00271914,
 24 CSI-CLI-00274107 – CSI-CLI-00274387, CSI-CLI-00275376 – CSI-CLI-00276837, CSI-CLI-
 25 00314732 – CSI-CLI-00314943, CSI-CLI-00316210 – CSI-CLI-00317412, CSI-CLI-00317634 –
 26 CSI-CLI-00317847, CSI-CLI-00318351 – CSI-CLI-00318532, CSI-CLI-00319252 – CSI-CLI-
 27 00321189, CSI-CLI-00324036 – CSI-CLI-00324389, CSI-CLI-00325497 – CSI-CLI-00325713,
 28

1 CSI-CLI-00332893 – CSI-CLI-00345450, CSI-CLI-00348572 – CSI-CLI-00348689, CSI-CLI-
2 00350066 – CSI-CLI-00351948.

3 IOS v. 15.1: Source Code, CSI-CLI-00034689 – CSI-CLI-00054565, CSI-CLI-00223197 –
4 CSI-CLI-00224078, CSI-CLI-00226300 – CSI-CLI-00226414, CSI-CLI-00226710 – CSI-CLI-
5 00227953, CSI-CLI-00267773 – CSI-CLI-00268938, CSI-CLI-00314422 – CSI-CLI-00314731,
6 CSI-CLI-00314944 – CSI-CLI-00316209, CSI-CLI-00317413 – CSI-CLI-00317633, CSI-CLI-
7 00317848 – CSI-CLI-00318350, CSI-CLI-00318533 – CSI-CLI-00319251, CSI-CLI-00319765 –
8 CSI-CLI-00325376, CSI-CLI-00325497 – CSI-CLI-00325713, CSI-CLI-00333135 – CSI-CLI-
9 00333809, CSI-CLI-00337967 – CSI-CLI-00338200, CSI-CLI-00338481 – CSI-CLI-00338696,
10 CSI-CLI-00338941 – CSI-CLI-00339290, CSI-CLI-00345451 – CSI-CLI-00354832.

11 IOS v. 15.2: Source Code, CSI-CLI-00024968 – CSI-CLI-00034688, CSI-CLI-00074028 –
12 CSI-CLI-00074113, CSI-CLI-00091773 – CSI-CLI-00091888, CSI-CLI-00098678 – CSI-CLI-
13 00099910, CSI-CLI-00101493 – CSI-CLI-00101653, CSI-CLI-00102320 – CSI-CLI-00102428,
14 CSI-CLI-00102615 – CSI-CLI-00102827, CSI-CLI-00104206 – CSI-CLI-00104306, CSI-CLI-
15 00105599 – CSI-CLI-00105706, CSI-CLI-00106165 – CSI-CLI-00106403, CSI-CLI-00107100 –
16 CSI-CLI-00107198, CSI-CLI-00108121 – CSI-CLI-00110637, CSI-CLI-00142102 – CSI-CLI-
17 142151, CSI-CLI-00145892 – CSI-CLI-00145912, CSI-CLI-00146305 – CSI-CLI-00146361,
18 CSI-CLI-00146494 – CSI-CLI-00146672, CSI-CLI-00150117 – CSI-CLI-00150301, CSI-CLI-
19 00151700 – CSI-CLI-00151794, CSI-CLI-00153045 – CSI-CLI-00154056, CSI-CLI-00154957 –
20 CSI-CLI-00154967, CSI-CLI-00161254 – CSI-CLI-00161264, CSI-CLI-00162423 – CSI-CLI-
21 00162433, CSI-CLI-00162764 – CSI-CLI-00163054, CSI-CLI-00163297 – CSI-CLI-00163575,
22 CSI-CLI-00163892 – CSI-CLI-00163997, CSI-CLI-00167730 – CSI-CLI-00168576, CSI-CLI-
23 00168785 – CSI-CLI-00170897, CSI-CLI-00171210 – CSI-CLI-00171263, CSI-CLI-00173118 –
24 CSI-CLI-00173146, CSI-CLI-00227954 – CSI-CLI-00228224, CSI-CLI-00236536 – CSI-CLI-
25 00237167, CSI-CLI-00237495 – CSI-CLI-00239781, CSI-CLI-00241096 – CSI-CLI-00248137,
26 CSI-CLI-00276838 – CSI-CLI-00288213, CSI-CLI-00288322 – CSI-CLI-00289855, CSI-CLI-
27 00292982 – CSI-CLI-00294561.

28

1 IOS v. 15.4: Source Code, CSI-CLI-00074114 – CSI-CLI-00091772, CSI-CLI-00091889 –
2 CSI-CLI-00098677, CSI-CLI-00217613 – CSI-CLI-00223196 – CSI-CLI-00224078, CSI-CLI-
3 00224079 – CSI-CLI-00226299, CSI-CLI-00276838 – CSI-CLI-00277169, CSI-CLI-00289856 –
4 CSI-CLI-00310345, CSI-CLI-00325714 – CSI-CLI-00332892.

5 IOS XR v. 3.0: Source Code, CSI-CLI-00359263 – CSI-CLI-00362850.

6 IOS XR v. 3.2: Source Code, CSI-CLI-00362851 – CSI-CLI-00370474.

7 IOS XR v. 3.3: Source Code, CSI-CLI-00370475 – CSI-CLI-00380671.

8 IOS XR v. 3.4: Source Code, CSI-CLI-00380672 – CSI-CLI-00389727.

9 IOS XR v. 3.5: Source Code, CSI-CLI-00389728 – CSI-CLI-00403864.

10 IOS XR v. 4.3: Source Code, CSI-CLI-00099911 – CSI-CLI-00101492, CSI-CLI-
11 00101654 – CSI-CLI-00102319, CSI-CLI-00102429 – CSI-CLI-00102614, CSI-CLI-00102828 –
12 CSI-CLI-00104205, CSI-CLI-00104307 – CSI-CLI-00105598, CSI-CLI-00105707 – CSI-CLI-
13 00106164, CSI-CLI-00106404 – CSI-CLI-00107099, CSI-CLI-00107199 – CSI-CLI-00108120,
14 CSI-CLI-00102732 – CSI-CLI-00127155, CSI-CLI-00137956 – CSI-CLI-00142101, CSI-CLI-
15 00142214 – CSI-CLI-00142101 – CSI-CLI-00143091, CSI-CLI-00143160 – CSI-CLI-00145891,
16 CSI-CLI-00145913 – CSI-CLI-00146304, CSI-CLI-00146362 – CSI-CLI-00146493, CSI-CLI-
17 00146673 – CSI-CLI-00150166, CSI-CLI-00150302 – CSI-CLI-00151699, CSI-CLI-00151795 –
18 CSI-CLI-00153044, CSI-CLI-00154057 – CSI-CLI-00154956, CSI-CLI-00154968 – CSI-CLI-
19 00161253, CSI-CLI-00161265 – CSI-CLI-00162422, CSI-CLI-00162434 – CSI-CLI-00162763,
20 CSI-CLI-00163998 – CSI-CLI-00167729, CSI-CLI-00168577 – CSI-CLI-00168784, CSI-CLI-
21 00170898 – CSI-CLI-00171209, CSI-CLI-00171264 – CSI-CLI-00173117, CSI-CLI-00173147 –
22 CSI-CLI-00173412.

23 IOS XR v. 5.2: Source Code, CSI-CLI-00110638 – CSI-CLI-00123731, CSI-CLI-
24 00127156 – CSI-CLI-00137955, CSI-CLI-00142152 – CSI-CLI-00142213, CSI-CLI-00143092 –
25 CSI-CLI-00143159, CSI-CLI-00163055 – CSI-CLI-00163296, CSI-CLI-00163576 – CSI-CLI-
26 00163891, CSI-CLI-00189310 – CSI-CLI-00191711.

27 IOS XE v. 2.1: Source Code, CSI-CLI-00229755 – CSI-CLI-00236535, CSI-CLI-
28 00268939 – CSI-CLI-00271384, CSI-CLI-00271915 – CSI-CLI-00274106, CSI-CLI-00274388 –

1 CSI-CLI-00276837, CSI-CLI-00313895 – CSI-CLI-00314421, CSI-CLI-00325377 – CSI-CLI-
2 00325496.

3 IOS XE v. 3.5: Source Code, CSI-CLI-00180764 – CSI-CLI-00189309, CSI-CLI-
4 00228225 – CSI-CLI-00229754, CSI-CLI-00236536 – CSI-CLI-00236768, CSI-CLI-00237168 –
5 CSI-CLI-00237494, CSI-CLI-00237785 – CSI-CLI-00237793, CSI-CLI-00239782 – CSI-CLI-
6 00241095, CSI-CLI-00248138 – CSI-CLI-00267772, CSI-CLI-00277170 – CSI-CLI-00277359,
7 CSI-CLI-00288214 – CSI-CLI-00288321, CSI-CLI-00288673 – CSI-CLI-00289121, CSI-CLI-
8 00310346 – CSI-CLI-00313894.

9 NX-OS v. 4.0: Source Code, CSI-CLI-00054566 – CSI-CLI-00054597, CSI-CLI-
10 00191712 – CSI-CLI-00192226, CSI-CLI-00202929 – CSI-CLI-00207082.

11 NX-OS v. 5.0: Source Code, CSI-CLI-00173413 – CSI-CLI-00176459, CSI-CLI-
12 00196923 – CSI-CLI-00197194, CSI-CLI-00197411 – CSI-CLI-00197600, CSI-CLI-00199585 –
13 CSI-CLI-00200362, CSI-CLI-00201361 – CSI-CLI-00201380, CSI-CLI-00201823 – CSI-CLI-
14 00201848, CSI-CLI-00207083 – CSI-CLI-00212262, CSI-CLI-00216926 – CSI-CLI-00216955.

15 NX-OS v. 5.2: Source Code, CSI-CLI-00176460 – CSI-CLI-00178217, CSI-CLI-
16 00196489 – CSI-CLI-00196922, CSI-CLI-00197195 – CSI-CLI-00197410, CSI-CLI-00197601 –
17 CSI-CLI-00199584, CSI-CLI-00200363 – CSI-CLI-00201360, CSI-CLI-00201381 – CSI-CLI-
18 00201822, CSI-CLI-00201849 – CSI-CLI-00202928.

19 NX-OS v. 6.2: Source Code, CSI-CLI-00178218 – CSI-CLI-00180763, CSI-CLI-
20 00192227 – CSI-CLI-00196488, CSI-CLI-00212263 – CSI-CLI-00216925.

21 EOS 4.0.1: Source Code, CSI-CLI-00007244 – CSI-CLI-00007472.

22 EOS 4.6.2: Source Code, CSI-CLI-00006858 – CSI-CLI-00007243.

23 EOS 4.10.0: Source Code, CSI-CLI-00007841 – CSI-CLI-00008984.

24 EOS 4.11.1.2: Source Code, CSI-CLI-00010517 – CSI-CLI-00011972.

25 EOS 4.12.4: Source Code, CSI-CLI-00014141 – CSI-CLI-00016000.

26 EOS 4.13.6F: Source Code, CSI-CLI-00016001 – CSI-CLI-00018140.

27 EOS 4.13.7M: Source Code, CSI-CLI-00011973 – CSI-CLI-00014140.

28 EOS 4.14.3F: Source Code, CSI-CLI-00018146 – CSI-CLI-00020377.

1 EOS 4.14.5F: Source Code, CSI-CLI-00000084 – CSI-CLI-00002331.

2 EOS 4.14.6M: Source Code, CSI-CLI-00004616 – CSI-CLI-00006857.

3 EOS 4.15.0F: Source Code, CSI-CLI-00002332 – CSI-CLI-00004615.

4 Cisco's discovery efforts in this case are ongoing, and Cisco reserves the right to further
5 supplement this response in light of facts learned during discovery, including information
6 regarding Arista's accused products (including source code and other non-public materials) and
7 expert discovery.

8
9 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:**

10 Subject to and without waiver of its general and specific objections, Cisco further responds
11 as follows:

12 Arista has copied Cisco's copyrighted command hierarchy and the structure, sequence and
13 organization of Cisco's command expressions. Cisco's command expressions are organized
14 hierarchically such that certain groups and sub-groups of command expressions can be identified.
15 For example, paragraph 52 of Cisco's Second Amended Complaint for Copyright and Patent
16 Infringement (Dkt. 64) identify various command hierarchies (e.g., "aaa" command hierarchy,
17 "bgp" command hierarchy, "clear" command hierarchy, "dot1x" command hierarchy, "ip"
18 command hierarchy, "ipv6" command hierarchy, "neighbor" command hierarchy, "show"
19 command hierarchy, "snmp-server" command hierarchy, "spanning-tree" command hierarchy,
20 "vrrp" command hierarchy, and other command expressions and hierarchies). Within a given
21 command hierarchy, all of the commands start with the same word; for example, all of the
22 commands within the "aaa" command hierarchy start with "aaa." The Second Amended
23 Complaint further identifies sub-hierarchies within a command hierarchy (e.g., "ip dhcp" sub-
24 hierarchy, "ip igmp" sub-hierarchy, "ip msdp" sub-hierarchy, "ip ospf" sub-hierarchy, "ip pim"
25 sub-hierarchy, "ipv6 nd" sub-hierarchy, "ipv6 ospf" sub-hierarchy, "show interfaces" sub-
26 hierarchy, "show ipv6" sub-hierarchy). Within a given command sub-hierarchy, all of the
27 commands start with the same two words; for example, all of the commands within the "ip dhcp"
28 sub-hierarchy start with "ip dhcp." There can be further sub-hierarchies within a given sub-

1 hierarchy. One way to demonstrate the hierarchy and organization of Cisco's command
2 expressions visually is through the use of a tree structure. An example tree structure of a portion
3 of the "ip" command hierarchy is provided in Exhibit D. Arista's copied commands are organized
4 into the same hierarchies and sub-hierarchies and have the same tree structure.

5 Arista also has copied Cisco's command responses and their organization. Cisco's
6 command responses constitute original, creative contributions to Cisco's copyrighted works.
7 Attached as Exhibit E is a listing of some command responses from Cisco's copyrighted works
8 that were copied by Arista, as well as the version(s) of Arista's infringing works that contain these
9 protected elements. In addition, Arista has copied the non-literal elements of Cisco's command
10 responses, including their structure, sequence and organization as also shown in Exhibit E. The
11 command responses identified in Exhibit E are exemplary only, as Cisco's investigation is
12 ongoing.

13 Cisco's discovery efforts in this case are ongoing, and Cisco reserves the right to further
14 supplement this response in light of facts learned during discovery, including information
15 regarding Arista's accused products (including screenshots, source code and other non-public
16 materials) and expert discovery.

17
18 **THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:**

19 Subject to and without waiver of its general and specific objections, Cisco further responds
20 as follows:

21 Exhibit C to Cisco's Second Supplemental Response to Interrogatory No. 2 identifies
22 certain command modes and associated prompts that were created by Cisco and copied by Arista.
23 Arista's copying of command modes and prompts extends to interface-, feature-, protocol- and
24 other more specific command modes and submodes, with associated prompts. Cisco's discovery
25 regarding those modes and submodes is ongoing, and Cisco reserves the right to supplement its
26 response in light of information learned subsequently from Arista's source code and/or operable
27 Arista devices, which Cisco requested on September 18, 2015 but Arista has not yet produced.
28

1 Attached hereto as Amended Exhibit D1-D26 are command hierarchies containing Cisco's
2 copyrighted command expressions that have been copied in whole or in part by Arista. These
3 hierarchies are contained in Cisco's and Arista's respective product documentation and source
4 code. The hierarchies contained in Amended Exhibit D1-D26 identify multi-word command
5 expressions that Arista has copied. To the extent that Arista has utilized other command
6 expressions that fit within the identified hierarchies, copying of such expressions further
7 demonstrates copying of command hierarchies. In addition, Arista's location of individual
8 command expressions within the same modes as those commands are located in Cisco's operating
9 systems (*e.g.*, the "enable" EXEC command in EOS and IOS) is further evidence of Arista's
10 copying of Cisco's command hierarchies. Cisco's discovery regarding these command hierarchies
11 is ongoing, and Cisco reserves the right to supplement its response in light of information learned
12 subsequently from Arista's source code and/or operable Arista devices, which Cisco requested on
13 September 18, 2015 but Arista has not yet produced.

14 Exhibit E to Cisco's Second Supplemental Response to Arista's Interrogatory No. 2
15 included examples of Arista's copying of certain command outputs from Cisco's copyrighted
16 works. Cisco's discovery regarding these command outputs is ongoing, and Cisco reserves the
17 right to supplement its response in light of information learned subsequently from Arista's source
18 code and/or operable Arista devices, which Cisco has requested but Arista has not yet produced.

19 Cisco's discovery efforts in this case are ongoing, and Cisco reserves the right to further
20 supplement this response in light of facts learned during discovery, including information
21 regarding Arista's accused products (including source code and other non-public materials, as well
22 as operable Arista devices) and expert discovery, or any other reason for which supplementation is
23 permissible under the Federal Rules of Civil Procedure.

24
25 **FOURTH SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:**

26 Subject to and without waiver of its general and specific objections, Cisco further responds
27 as follows:
28

1 In addition to the command outputs previously identified in Exhibit E to Cisco's response
 2 to this interrogatory, Arista has copied the interactive "help" screens from Cisco's copyrighted
 3 works. For example, in response to the "help" command, both Cisco's and Arista's operating
 4 systems display the following text, which was originally created by Cisco in version 9.21 of IOS:

```
5 Help may be requested at any point in a command by entering
6 a question mark '?'. If nothing matches, the help list will
7 be empty and you must back up until entering a '?' shows the
8 available options.
9 Two styles of help are provided:
10 1. Full help is available when you are ready to enter a
11    command argument (e.g. 'show ?') and describes each possible
12    argument.
13 2. Partial help is provided when an abbreviated argument is entered
14    and you want to know what arguments match the input
15    (e.g. 'show pr?').
```

11 Arista's copying of the help screen displays extends to the description of various command
 12 expressions. In both Cisco's CLI and Arista's CLI, users can type "?" to generate context-
 13 sensitive help, including a list of available commands and descriptions thereof. Arista has copied
 14 numerous examples of Cisco's original command expression descriptions (*e.g.*, explaining that the
 15 "enable" command will "Turn on privileged commands"). Cisco's discovery regarding these
 16 screen displays is ongoing, and Cisco reserves the right to supplement its response in light of
 17 information learned subsequently from Arista's source code and/or operable Arista devices, which
 18 Cisco has requested but Arista has not yet produced.

19
 20 **INTERROGATORY NO. 3:**

21 State in detail Cisco's factual bases for its claim that any copyright infringement by Arista
 22 (or for which Cisco claims Arista is liable) was willful.

23
 24 **RESPONSE TO INTERROGATORY NO. 3:**

25 Cisco incorporates by reference its General Objections as though fully set forth herein.
 26 Cisco further objects to this interrogatory as irrelevant and not calculated to lead to the discovery
 27 of admissible evidence to the extent it calls for information not pertaining to the acts at issue in
 28 this suit. Cisco further objects to this interrogatory to the extent that it calls for information that is

1 obtained from the documents by Arista as easily as by Cisco. These documents include the
2 following: Exhibits to Cisco's September 21, 2015 Responses to Arista's Third Set of
3 Interrogatories (No. 18); September 30, 2015 Transcript of Proceedings in *Cisco v. Arista*
4 *Networks, Inc.*, Case No. CV-14-5344.

5 Cisco's investigation of the subject matter of this interrogatory is ongoing. In particular,
6 Arista has not yet submitted detailed invalidity contentions, and the parties have not yet engaged
7 in expert discovery. Nor have the parties yet completed the claim construction process or has the
8 Court issued a claim construction order. Cisco therefore reserves the right to supplement this
9 response as additional information becomes available and once the parties engage in expert
10 discovery.

11
12 **INTERROGATORY NO. 15:**

13 If You seek to recover lost profits by way of any claim in this matter, identify with
14 specificity all bases on which You seek such recovery, including but not limited to identifying any
15 and all facts, witnesses, evidence, communications and documents that You believe support Your
16 claim for such recovery.

17
18 **RESPONSE TO INTERROGATORY NO. 15:**

19 Cisco incorporates by reference its General Objections as though fully set forth herein.
20 Cisco also objects to this interrogatory as undefined, vague, ambiguous, overbroad, and unduly
21 burdensome in its use of the terms "with specificity," "all bases." Cisco further objects to this
22 request as compound and containing multiple subparts. Cisco further objects to this interrogatory
23 to the extent that it calls for information that is in Arista's control, but which Arista has not yet
24 produced. Cisco further objects to this interrogatory on the grounds that it prematurely seeks
25 expert testimony. Cisco further objects to this interrogatory on the grounds that it prematurely
26 seeks validity positions before Arista has produced any evidence that the asserted patents are
27 invalid. Cisco further objects to this interrogatory to the extent it seeks information that is
28 protected by the attorney-client privilege, that constitutes attorney work-product, or that is

1 protected by any other applicable privilege, protection, or immunity, including without limitation
2 in connection with the common interest doctrine.

3 Subject to and without waiver of its general and specific objections, Cisco incorporates by
4 reference, as if fully set forth herein, Cisco's Initial Disclosures pursuant to Rule 26(a)(1) and its
5 response to Interrogatory No. 1. Cisco further responds, pursuant to Fed. R. Civ. P. 33(d), that
6 Cisco will produce documents containing information responsive to this interrogatory, which
7 information may be obtained from the documents by Arista as easily as by Cisco. Cisco's
8 discovery efforts in this case are ongoing, and Cisco reserves the right to further supplement this
9 response in light of facts learned during discovery, including information regarding Arista's
10 accused products.

11
12 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 15:**

13 Subject to and without waiver of its general and specific objections, Cisco further responds
14 as follows:

15 Arista has admitted in numerous public statements that it competes with Cisco. (*See, e.g.,*
16 CSI-CLI-0035237; Arista presentation entitled "Our Journey to Software Driven Cloud
17 Networking," available at [http://investors.arista.com/files/doc_presentations/Pres/Arista-](http://investors.arista.com/files/doc_presentations/Pres/Arista-BarclaysPres-120914-FINAL-USETHISv2_v001_a8p3ci.pdf)
18 [BarclaysPres-120914-FINAL-USETHISv2_v001_a8p3ci.pdf](http://investors.arista.com/files/doc_presentations/Pres/Arista-BarclaysPres-120914-FINAL-USETHISv2_v001_a8p3ci.pdf), p. 5; "Arista Networks Inc at
19 Bernstein Technology Innovation Summit – Final," available at
20 <http://www.crmz.com/NewsStory.aspx?NewsId=14139822>; and Arista Networks, Inc. 2014
21 Annual Report, available at [http://investors.arista.com/files/doc_financials/Arista-2014-Annual-](http://investors.arista.com/files/doc_financials/Arista-2014-Annual-Report_v001_d7suv1.pdf)
22 [Report_v001_d7suv1.pdf](http://investors.arista.com/files/doc_financials/Arista-2014-Annual-Report_v001_d7suv1.pdf), p. 16.) Arista has admitted that Cisco is its primary competitor, which
23 is a sentiment echoed by industry observers. (*See* Arista Networks, Inc. 2014 Annual Report,
24 available at [http://investors.arista.com/files/doc_financials/Arista-2014-Annual-](http://investors.arista.com/files/doc_financials/Arista-2014-Annual-Report_v001_d7suv1.pdf)
25 [Report_v001_d7suv1.pdf](http://investors.arista.com/files/doc_financials/Arista-2014-Annual-Report_v001_d7suv1.pdf), p. 16; "Cisco Competitor Arista Networks Scores With Hot IPO," June
26 6, 2014 Investor's Business Daily, available at [http://news.investors.com/technology/060614-](http://news.investors.com/technology/060614-703708-arista-networks-ipo-pops.htm)
27 [703708-arista-networks-ipo-pops.htm](http://news.investors.com/technology/060614-703708-arista-networks-ipo-pops.htm); CSI-CLI-00355230 – CSI-CLI-00355245.) It is therefore
28 reasonable, as both a factual and legal matter, to infer that a substantial portion of Arista's sales of

1 any infringing devices come at Cisco's expense, in the form of lost market share and lost profits.
 2 *See, e.g., State Indus., Inc. v. Mor-Flo Indus., Inc.*, 883 F.2d 1573 (Fed. Cir. 1989); *Datascope*
 3 *Corp. v. SMEC, Inc.*, 879 F.2d 820, 826 (Fed. Cir. 1989).

4 No inference is required in this case, however. That Arista's infringing sales take sales and
 5 profits from Cisco is supported by Arista's own public statements and industry commentary. For
 6 example, Arista's CEO Jayshree Ullal told one industry analyst that "her customers are in the
 7 process of picking up Arista gear in order to have two suppliers where in past they only had one --
 8 Cisco." (*See* "Cisco Races Hard to Stay Even," August 16, 2014 Barron's, *available at*
 9 <http://online.barrons.com/articles/SB50001424053111904537004580085620347668144>.) The
 10 industry analyst who reported Ms. Ullal's statement was even more explicit: "As I've stated in the
 11 past, money in Arista's pocket is money out of Chambers' pocket. Arista's \$137.9 million in
 12 revenue was not far from the \$152 million decline in Cisco's switch sales, implying, if not
 13 proving, a direct correlation between Arista's beat and Cisco's slip in switching." (*See* "Cisco
 14 Races Hard to Stay Even," August 16, 2014 Barron's, *available at*
 15 <http://online.barrons.com/articles/SB50001424053111904537004580085620347668144>.) And
 16 Arista publicly reports the correlation between its market share gains to Cisco's market share
 17 losses. (*See, e.g.,* CSI-CLI-00358000 – CSI-CLI-00358022; CSI-CLI-00355164 – CSI-CLI-
 18 00355185.)

19 Arista specifically emphasizes the similarity between its infringing CLI and Cisco's
 20 patented and copyrighted CLI to promote sales of its infringing products—at Cisco's expense.
 21 Exemplary comments demonstrating Arista's use of its infringing CLI to try to take Cisco's
 22 customers include the following:

- 23 • "[A] Cisco CCIE expert would be able to use Arista right away, because we have a
 24 similar command-line interface and operational look and feel. Where we don't
 25 have to invent, we don't." John Gallant, "How Arista Networks Got Out In Front
 26 of the SDN Craze," Network World (Feb. 22, 2013).
- 27 • Arista has learned to "[p]rovide familiar interfaces to ease adoption" including a
 28 "standard CLI that ... retains familiar management commands" so much so that

1 “80% [of Arista customers] tell us they appreciate the way they can leverage their
 2 deep [Cisco] IOS experience, as they can easily upgrade an aging [Cisco] Catalyst
 3 infrastructure to Arista.” Posting of Kenneth Duda to Arista EOS Central, “Linux
 4 as a Switch Operating System: Five Lessons Learned” (Nov. 5, 2013), *available at*
 5 <https://eos.arista.com/linux-as-a-switch-operating-system-five-lessons-learned/>.

- 6 • “Familiar management interfaces, standard CLI ... It’s been very helpful for our
 7 customers to be able to rapidly adopt our products and integrate them into their
 8 environments ... that our switches provide a familiar management interface so their
 9 existing tools and processes, screen scraping, automation, continue to work just as
 10 they did before.” Arista, *EOS Bites & Bytes - Episode 1 - Lessons Learned While*
 11 *Building a Network OS on Top of Linux*, Arista EOS Central - Video Library (Jan.
 12 30, 2014), at 6:55–7:56, *available at* [http://eos.arista.com/wp-](http://eos.arista.com/wp-content/themes/aristaeos/video-lightbox.php?vid=ttp6lavHKGo)
 13 [content/themes/aristaeos/video-lightbox.php?vid=ttp6lavHKGo](http://eos.arista.com/wp-content/themes/aristaeos/video-lightbox.php?vid=ttp6lavHKGo).

- 14 • “The familiar EOS command-line interface (CLI) avoids retraining costs.” Arista,
 15 *EOS: An Extensible Operating System*.

16 At present, Arista has not produced sufficient information regarding its sales or customers
 17 for Cisco to identify specific sales lost to Arista, or to quantify Cisco’s resulting lost profits more
 18 precisely. Pursuant to the agreement of the parties, such information will be exchanged at the end
 19 of August.

20 Individuals with knowledge of specific sales taken from Cisco by Arista are likely to
 21 include members of Cisco’s and Arista’s sales and marketing teams. Arista’s customers are also
 22 likely to possess relevant information. Documents relevant to Arista’s efforts to take sales from
 23 Cisco are likely to include at least Arista’s product documentation for its accused products and
 24 marketing collateral related thereto.

25 Cisco further responds, pursuant to Fed. R. Civ. P. 33(d), that Cisco has produced
 26 documents containing information responsive to this interrogatory, which information may be
 27 obtained from the documents by Arista as easily as by Cisco. These documents include the
 28 following: CSI-CLI-00355137 – CSI-CLI-00355138; CSI-CLI-00356774 – CSI-CLI-00356785;

1 CSI-CLI-00356786 – CSI-CLI-00356793; CSI-CLI-00356794 – CSI-CLI-00356801; CSI-CLI-
2 00356802 – CSI-CLI-00356809; CSI-CLI-00356810 – CSI-CLI-00356817; CSI-CLI-00356818 –
3 CSI-CLI-00356826; CSI-CLI-00356827 – CSI-CLI-00356835; CSI-CLI-00356836 – CSI-CLI-
4 00356841; CSI-CLI-00356848 – CSI-CLI-00356854; CSI-CLI-0000356855 - CSI-CLI-00356859;
5 CSI-CLI-00357765; CSI-CLI-00357842 – CSI-CLI-00357855.

6 Cisco’s investigation of the subject matter of this interrogatory is ongoing. Cisco therefore
7 reserves the right to supplement this response as additional information becomes available.

1 DATED: January 5, 2016

Respectfully submitted,

2
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PROOF OF SERVICE

I hereby certify that, at the date entered below and per the agreement of the parties, I caused a true and correct copy of the foregoing to be served by transmission via electronic mail, made available to counsel at the email addresses below:

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I declare under penalty of perjury that the foregoing is true and correct. Executed on January 5, 2016, at San Francisco, California.

/s/ Catherine R. Lacey

Catherine R. Lacey